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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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January 17, 2008

Mr. Fred F. Fielding
Counsel to the President
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. Fielding:

At today's White House press briefing, Deputy Press Secretary Tony Fratto was asked about allegations that White House e-mails have been lost from White House servers. He stated in response: "we have absolutely no reason to believe that any e-mails are missing."

This statement is contrary to information that the White House provided to the Committee staff in a briefing on September 19, 2007. At this briefing, the White House showed staff a chart indicating that there were 473 days for which various entities in the Executive Office of the President had no archived e-mails. According to the chart, the days with no archived e-mails included:

- **For the White House Office:** December 17, 2003, December 20, 2003, December 21, 2003, January 9, 2004, January 10, 2004, January 11, 2004, January 29, 2004, February 1, 2004, February 2, 2004, February 3, 2004, February 7, 2004, and February 8, 2004.
- **For the Office of the Vice President:** September 12, 2003, October 1, 2003, October 2, 2003, October 3, 2003, October 5, 2003, January 29, 2004, January 30, 2004, January 31, 2004, February 7, 2004, February 8, 2004, February 15, 2005, February 16, 2005, February 17, 2005, May 21, 2005, May 22, 2005, May 23, 2005.
- **For the Council on Environmental Quality:** 81 days, including the entire period between November 1, 2003 through January 11, 2004.
- **For the Council on Economic Advisers:** 103 days, including the entire period between November 2, 2003 through January 11, 2004.

- **For the Office of Management and Budget:** 59 days, including the entire period between November 1, 2003 through December 9, 2003.
- **For the U.S. Trade Representative:** 73 days, including the entire period between February 11, 2004 through April 18, 2004.

The White House officials conducting the briefing took this chart with them. They also indicated that the White House was doing an additional analysis to determine whether the information in the chart was accurate. In a letter I sent to you on December 20, 2007, I asked for any new information or analyses about the problem of missing e-mails. I have not received a response to this letter.

Mr. Fratto's statements have added to the considerable confusion that exists regarding the status of White House efforts to preserve e-mails. To help clarify the situation, I request your testimony and the testimony of Alan Swendiman, the Director of the Office of Administration, at a hearing on February 15, 2008, at 10:00 a.m. in 2154 Rayburn House Office Building. At the hearing, I ask that you be prepared to address the issues described in the December 20, 2007, letter and the following questions:

- **Allegations that Executive Office of the President E-mails Were Lost between 2003 and 2005:** When did the White House learn about any such losses, what are the extent of such losses, what steps has the White House taken to respond to any such losses, and who was responsible for ensuring the preservation of White House e-mails during this period?
- **Recycling of Back-up Tapes between 2001 and 2003:** Who had responsibility for ensuring the preservation of e-mails between 2001 and 2003, who was responsible for the decision to recycle back-up tapes during this period, what was the basis of the decision to recycle back-up tapes, who was responsible for the decision to stop this practice in 2003, and why did this change in practice take place?
- **Electronic Records Preservation at the White House:** Have concerns been raised about the adequacy of the e-mail preservation system, and what steps has the White House taken to ensure sufficient electronic records preservation and e-mail archiving?
- **Presidential Transition Planning:** Who is responsible for preparing the White House to transition presidential records to the National Archives, what directives have been issued to White House staff regarding preservation of records and preparation for transition, what plans have been developed for the transition of both paper and electronic records, and what has the White House done to coordinate with the National Archives on transition planning?

Mr. Fred F. Fielding
January 17, 2008
Page 3

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. Information for witnesses appearing before the Committee is contained in the enclosed Witness Information Sheet.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive, slightly stylized font.

Henry A. Waxman
Chairman

Enclosure

cc: Tom Davis
Ranking Minority Member